

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0347P**

**Use Tax  
Calendar Years 1995 and 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on April 28, 1998.

Taxpayer, an Indiana corporation, has been registered with the department since 1989 to pay monthly sales and use taxes. Taxpayer paid use tax on its annual 1995 IT-20 tax return and filed a zero ST-103 return.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer requests a waiver and refund of penalty because one of the largest retailers told them they were tax exempt and it assumed the retailer was correct.

Taxpayer's audit report revealed that the majority of the assessment is not from the one retailer but from several others and no use tax accrual system was in place. The ST-103's clearly have an area in which to report purchases where no sales tax was collected. The taxpayer failed to self assess as required by statute. In addition, the taxpayer failed to remit its ST103 payments for 1995 and paid it with its annual

04980347P.LOF  
PAGE #2

tax return thereby avoiding penalty and interest.

The taxpayer was negligent in failing to remit the sales and use tax due.

**FINDING**

Taxpayer's protest is denied.